

Applicant: GATTO
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MPEP § 803 clearly states that “[i]f the search and examination of the entire application can be made without serious burden, the examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.” The subject matter of the claims comprising Group I and Group II are sufficiently related such that a thorough search and examination of any one claim set would necessarily encompass the search and examination of the remaining claims. Not only does the Examiner concede that the subject matter of Group I and Group II are classified in the same class and subclass [Restriction Requirement, pg. 3], but the Examiner has already searched and examined all of the pending claims on their merits. *See* First Office Action, mailed December 14, 2004 (Paper No. 13). This is clear evidence that search and examination of the entire application can be conducted without serious burden. For at least this reason, the Restriction Requirement fails to satisfy the criteria of MPEP § 803 and is improper.

Reconsideration and withdrawal of the Restriction Requirement are respectfully requested so as to avoid the unnecessary delay and expense to Applicant, as well as the duplicative examination by the U.S. Patent and Trademark Office.

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Respectfully submitted,

By:



Bradford C. Blaise
Registration No. 47,429

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Direct Dial: 703-770-7741
Main: 703-770-7900
Fax: 703-770-7901